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Supreme Court, U.S.
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Case No. 1 Docket No.

Case No. 2 Docket No.

In the United States Supreme Court

Ashok Kashelkar Case No. 1
Petitioner
-against-

Harold Y. MacCartney, Jr et al
Respondents

ASHOK KASHELKAR Case No. 2
Petitioner
-against-

RUBIN & ROTHMAN ; et al
Respondents

On Petition For Writ of Certiorari
to the United States Court for the Second Circuit

Appendix D - Conforming to Rule 14.1(i)(vi)

Petitioner - Ashok Kashelkar - Pro Se
6 Innington Court,
Spring Valley, NY 10977
Tel. (845) 426 2902

55 pp

Table Of Contents

List of the Counsels for the Respondents	ii
Statement Of Petitioner	iii
Table Of Authorities cited in Lower Courts	1-18
Portion of Appellate Brief	
The Jurisdictional statement	19
Statement of Issues presented for review	19
Statement Of The Case	21
Statement of Facts	23
Listing of major transactions-with detailed references to the complaint and exhibits	23-45
Summary Of Arguments	45-46
Arguments	46-51

List of the Counsels for the Respondents

Case No. 1... Ashok Kashelkar v
Harold Y. MacCartney, Jr, et al

MacCartney, MacCartney, Kerrigan &MacCartney,
For Harold Y. MacCartney, Jr and the Firm
13 North Broadway
Nyack, NY 10960
Tel (845) 358 0074

Garcia & Stallone ESQ
For: Debora J. Dillon, William R. Watson;
O'Connor, McGuiness, Conte, Doyle,
Olsen & Collins
135 Pine Lawn Road- Suite 220 N
Melville NY 11747
Tel (631) 249 6644

Attorney General O The State Of New York
Charles F. Sanders. Asst. Atty Gen
For Bruce Muldoon
120 Broadway, New York 10271
Tel (212) 416 8594

Case No. 2 Ashok Kashelkar v Rubin & Rothman, et al

Cahill, Gordon & Reindel
Joseph Gershman
80 Pine Street, New York NY 10005
Tel (212) 701 3000

Statement Of Petitioner

Ashok Kashelkar, petitioner herein, respectfully states, that, the within "material" if part of the Appellate Brief filed in The Court Of Appeals, for the Second Circuit, that offers a "distilled" view of the complaint including the exhibits.

This Appendix D offers material conforming to Rule 14.1(i)(vi)

This material "exclusively" refers to case No. 1; i.e. Ashok Kashelkar v Harold Y. MacCartney, Jr. et al

This petition is submitted in conformance with U. S. Supreme Court Rule 12.4, in view of the "substantially same and\or similar" questions presented in the Petition and the issues have been raised in the lower Court.

This Appendix, is a "combined" Appendix, for the two cases covered by this Petition.

Spring Valley, NY

Dated July 24, 2001

Ashok Kashelkar
Pro Se Petitioner
6 Innington Court
Spring Valley NY 10977
Tel. (845) 426 2902

Authorities Cited in District Court and Court Of Appeals Proceedings

Nomenclature of the abbreviations used hereunder.

DCLM, DCAF, & DCRR -
Law memos to U. S. District Court
B- Brief to U. S. Court Of Appeals
RB- Reply Brief " "
RARG- Petition for Reargument - Brief to " "

Page No in document

U. S. Constitution RARG-1,2,10

Article III Section 2, clause 1 ...DCLM 7,
Article VI, RARG-3

First Amendment	DCLM 21,43 B-15, 38, RARG-14
Fifth Amendment	B-2, RARG-1,2,8
Seventh Amendment	B-41
Eleventh Amendment	B-34; RARG-10, 13;
Fourteenth Amendment	DCLM 43; B-8, 20, 33, 38,; RB-1; RARG-1,9,11

Federal Rules of Civil Procedure RARG-1

Rule 8	B-25, 28,;	RB-1
Rule 9	B-25;	RB-1
Rule 10	B-25,	RB-1
Rule 11	B-27, 28	

Rule 12	DCLM 1; B-1, 4, 14; RARG-2, 18
Rule 16	RARG-1,3,5
Rule 56	B-1, 4, 28; RARG-2,6,18

Federal Rules Of Appellate Procedure

Rule No. 4	B-1
Rule 32	RARG-19

United State Statutes

U. S. Penal Code

Re: Civil Rights

18 USCS 241	DCRR-21
18 USCS 243	DCRR-21
18 USCS 245	DCRR-21

Mail Fraud

18 USCS 1341 *et seq.*	B- 6, 9, 12, 13, 14, 15, 16, 17, 18, 19, 39, RARG-15,

Obstruction of Justice

18 USCA 1512, et seq	B- 8, 11, 16, 17, 18, 22, 23; RARG-15

Perjury Etc.

18 USCS 1621	RB-1 RARG-2,6
18 USCS 1622	RB-1
18 USCS 1623	RARG -2,6

Extortion

18 USCS 1951	RARG-15

RICO

18 USCS 1961, *et seq;* B- 3, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 39 RARG-15, ,
18 USCA 1962 *et seq;* B-8, 40,
18 USCA 1964 *et seq;* B-8, 40, RARG-16
18 USCA 1965 *et seq;* B-8,

U. S. Civil Rights Statutes

42 USCS 1981 *et seq;* DCLM 24, B-3,7,11, 15, 16, 35; RARG-13
42 USCS 1983 *et seq;* DCLM 25,B- 3,7,8,11, 15, 16, 36, 38; RARG-14
42 USCS 1985 *et seq;* DCLM 26,B- 3,8,11, 15, 16, 38; RARG-14

United States Supreme Court Cases

ABF Air Freight System v NLRB 510 US 317... DCRM-5
Adickes v. Kress & Co. 398 U.S.144 .....
.....DCLM 29, 44- 47; B-38; RB-2; RARG-14
Agency Holding Corp v Malley Duff & Assoc.
483 US 143 .....DCLM 47,48;
American Mfrs. Mut. Ins. Co. v Sullivan.
526 US 40,.....B- 36, 37; RARG-11
Anderson v Creighton 483 U.S. 635 .....B-32
Anderson v Liberty Lobby 477 US 242 ..... DCRM-8
ARCO v USA Petroleum 495 US 328..... RARG-19
Arizona Dept. of Revenue v Blaze
Construction Co. Inc.; 526 US 32.....B-34
Badders v. United States 240 U. S. 391,...B-39; RARG-15
BAKER v McCOLLAN 443 US 137, ... B-18; RB-18;
Barr v. Matteo 360 US at 564 ... RARG-18
BEHRENS v PELLETIER 516 US 299
....DCLM 16, B-3; RB-3;
Bell v Hood 327 US 684;..... .... DCRM-12

BIVENS v SIX UNKNOWN FED NARCOTICS AGENTS
403 US 388..... DCRM-11; DCAF-74; RB-4,10
Black v Romano 471 US 606 .... DCAF-56;
Blonder Tongue Labs. Inc v Unversity Of Illinois
Foundation 402 US 313 .... DCLM -8, RARG-8
BOB JONES UNIVERSITY v UNITED STATES
461 US 574, 622.....RB-13
BOLLING v. SHARPE, 347 US 497, ...RARG-3
BRADLEY v RICHMOND SCHOOL BOARD
416 US 696, ...DCRM-12; RB-19
Brecht v Abramson 507 US 619..... DCRM-6
Brewer v Williams 430 US 387 ..... DCLM 19,
BRISCOE v LAHUE 460 US 325, ... RB-18-19
Buckley v. American Constitutional Law
Foundation, Inc. 525 US 182, ...RB-11
BURNS v REED 500 US 478, ...RB-3
Bush v Palm Beach County Canvassing Board
531 US 70..... .....RARG-9, 12
Bush v Gore..531 US 98.....RARG-11, 12
BUSINESS GUIDES v CHROMATIC COMM.
498 US 533.....RB-5
Butler v McKeller 494 US 407 ..... DCLM 43-44,
Butz v Economou 438 US 478 .....RARG-12, 18
California Dental Association v. FTC 526 U. S. 756 RB-15
California Transport v Trucking Unlimited
404 US 508.....DCLM 21, 22, 42
Cargill Inc. v. Monfort Of Colorado, Inc.
479 US 104.....RARG-19
Carpenter v. Scott 463 U.S. 825.....B-38; RARG-15
Cedar Rapids Community School District v.
Garret F. 526 US 66, ...RB-14, RARG-17
Celotex Corp. v Catrett 477 US 317 ..... DCRM-3
Chicago & N. W. Transport v Kalo Brick & Tile
450 US 311 .....DCLM 35, DCAF-49,
CIPOLLONE v LIGGETT GROUP, INC.

505 US 504,..... RB-5
Cleburne v Cleburne Living Center
473 US 432 .....DCLM 25
Cleveland v. Policy Management Systems Corp.
526 US 795 .....B-26, 28,29; RB-7; RARG-4
Conley v Gibson 355 US 41 .....
..... DCLM 1; DCAF- 34; B-26, 41; RARG-4
Court Of Appeals v Feldman 460 US 462.....RARG-8
Cunningham v R. R. Co. 109 U. S. 446; B-32 , RARG-10;
Curtis v Loether 415 US 189.....B-41, RARG-17
DANIELS v WILLIAMS 474 US 327.....RARG-3
Davis v Monroe County Board Of Education
526 US 629,..... B-31,33; RB-21, RARG-10,13
Dennis Coates v City Of Cincinnati
402 US 611 ..... DCLM 35-36
Dennis v Higgins 498 US 439 .....DCLM 29-30,
DENNIS v SPARKS 449 US 24.....RB- 3 ; RARG-8;
DICK v NEW YORK LIFE INS. CO.
359 US 437..... RB-16, 20
Dickinson v. Zurko in 527 U.S. 150..... RB-16
Digital Equipment v Desktop Ditect
511 US 873 .....DCLM 19
DIST. COL. COURT OF APPEALS v
FELDMAN 460 US 462.....RB-4
Douglas v California 372 US 335..... DCLM-5
Edmonson v Leesville Concrete Co.
500 US 614..... DCLM-28
Elrod v Burns 427 US 347 ..... DCLM 23
Evans v Jeff D. 475 US 717..... DCLM-31
Evans v US 504 US 255.....RARG-15
Evitts v Lucey 469 US 387..... ..... DCLM-40
Ex Parte Henry 123 U. S. 372
.....DCRR-21, B-39; RARG-15
Ex Parte Young 209 U.S. 123, ...B-35; RARG-2,13
First National Bank Of Boston v Bellotti

435 US 765..... DCAF-56;
Flagg Brothers, Inc. v Brooks 436 US 149..... DCLM 37
Ford Motor Co. v. Dept. Of Treasury of Ind.;
323 US 459 .....RARG-10
Foucha v Louisiana 504 US 71.....DCLM-7
Gardner v. Broderick; 392 US 273.....B-32
GENERAL BUILDING CONTRACTORS v
PENNSYLVANIA 458 US 375.....RB-9
Gentile v State Bar Of Nevada 501 US 1030.....DCLM-35
Goldberg v Kelley 397 US 254..... .....DCRM-6; RARG-6
Golden State Transit Corp. v Los Angeles
493 US 103..... DCLM-29
Gomez v Toledo 446 US 635 .....DCLM-25
Grayned v City Of Rockford 408 US 104 .....DCLM-28
Great Northern Life Ins. Co. v Reed 322 US 47..
.....RARG-10
Griffin v Breckenridge 403 US 88 ..... DCLM-23, 38
Guidry v. Sheet Metal Workers National
Pension Fund, 493 US 365, ...RARG-16
H. J. Inc. v. Northwestern Bell 492 U. S. 229
..... DCRR-8, 20, B-40; RARG-16
Haddle v Garrison 525 U.S. 121.
.....B-38; RB-10; RARG-8, 14
Hafer v Melo 502 US 21 .....DCLM-25; RARG-13
Harlow v Fitzgerald. 457 U.S. 800 .....B-29, RARG-12
Hartford Underwriters' Insurance company v Union
Planters Bank 530 U. S.1 .....RARG-17
HAWAII v STANDARD OIL CO. 405 US 251.....
..... RB-12; RARG-16
Hazel-Atlas Glass Co. v. Hartford-
Empire Co. 322 US 238 .....RARG-12
HAZEN PAPER CO. v BIGGINS 507 US 604
.....RB-6
Heck v Humphrey 512 US 477.....B-41; RARG-17
HECKLER v MATHEWS 465 US 728.....RARG-14

Hensley v Eckhart 461 US 424.....DCLM-21,22
HERRERA v COLLINS 506 US 390.....RB-19
Holloway v United States 526 US 1.....
..... B-25; RB-13; RARG-17
Holmes v SIPC 503 US 258, ...DCRR-15-16;
Hugh Aircraft Co. v Jacobson 525 US 432
.....RB-12; RARG -16,17
Humana Inc. v. Forsyth. 525 US 299 ;
..... B-36; RB-11,12; RARG-13
International Shoe Co. v Washington 326 US 310
.....DCLM-6
IRWIN v DEPT. OF VETERANS AFFAIRS
498 US 89.....B-24
Jones v. United States 526 U. S. 227 ..... RB-15
KAISER ALUMINUM v BONJORNO,
494 US 827, ...RB-13
Kaufman v US 394 US 217.....DCLM-43
Kolender v Lawson 461 US 352 .... DCML-26, 27
Kumho Tire Co. v Carmichael.
526 US 137..... ..... B-26; RARG-4,5
LEWIS v CASEY 518 US 343.....RB-1, 17
Lilly v. Virginia 527 US 116 .....RB-5,
Lugar v Edmondson Oil Co.
457 US 922, ... DCLM-40; RARG-11
Lynch v. Household Finance Corp.
405 U.S. 588 ..... B-40, RB-13; RARG-16;
M.L.B. v S.L.J. 519 US 102 .....DCAF-58;
Marbury v. Madison. 1 Cranch 137 [1803]
..... DCAF-28; RB-2, 8, 15-16, 17; RARG-9
Mass. Bd Of Retirement v Murgia 427 US 307 DCML-43
Matthews v ELDRIDGE 424 US 319.....RARG-6
Marshall v Jericho, Inc. 446 US 238..... DCRM-12
Maty v Grasselli Chemical Co. 303 US 197 B-26; RARG-4
McClesky v Zant 499 US 467 ... .DCLM-12, 13
McLaughlin v Florida 379 US 184..... DCLM-32

McNary v Hatian Refugee Center
498 US 479 ..... DCLM-3,5; DCAF-58;
Medina v California 505 US 437..... DCRR-22
Mertens v Hewitt Associates, 508 US 248.....RARG-16
Middlesex City Sewerage Authority v Sea Clammers
453 US 1 .... DCLM-28
MILLER v CALIFORNIA 413 US 15..... .....RB-14, 16
Mitchell v United States 526 US 314.....RB-5, 7,
Monterey v Del Monte Dunes at Monterey, Ltd.
526 US 687 ..... B- 33,34,37; RB-7,9,15; RARG-14
Monroe v Pape 365 US 167..... DCRM-11; DCAF-67;
MOORE v SIMS 442 US 415.....RB-2
Mt. Healthy School Dist. V Doyle 429 US 274 ...DCLM-43
Mullane v Central Hanover B&T Co. 339 US 306 DCLM-39
Murray v Giarratano 492 US 1 ..... DCLM-6, 40
Murray v The Charming Betsy,
2 Cranch 64, (1804)..... ..... RARG-3
Nachman Corp. v. Pension Benefit Guarantee
Corporation, 446 US 359..... ..... RARG-16
National A.A.C.P v Alabama 357 US 449.....RB-18
Neder vs. United States 527 U.S. 1 ....RB-17, 18
New York Times v Sullivan 376 US 254 ..... DCLM-22
Nix v Williams 467 US 431..... .... DCLM-19, 20
Nordlinger v Hahn 505 US 1..... .... DCLM-29, 45
OLIM v WAKINEKONA 461 US 238.....RB-10, 11
Now v Scheidler 510 US 249 .....DCLM-11, 51
0wen vs Independence, 445 U.S. 622.... .... RARG-14
Owens v Okur 488 US 235 ....RARG-12
PACIFIC MUT. LIFE INS. CO. v HASLIP
499 US 1..... ..... RARG- 3-4
Parr v US 363 US 370..... .. DCRR-16-17;
Patsy v Florida Bd Of Regents 457 US 496..... DCLM-37
Patterson v McLean Credit Union
491 US 164..... B-35; RB-15; RARG-3,13
Peguero v United States 526 US 23..... B-26; RARG-5

Pereira v. United States
347 U. S. 1 ..... DCRR-12; B- 39; RARG-15
Pfaff v. Wells Electronics, Inc.525 U.S. 55....RB-5,8,14
Plyler v Doe 457 US 249.....DCLM- 30, 31, 32
Poindexter v. Greenhow 114 US 274
....DCLM-17,18; B-32, RB-2; RARG-10
Ramdass v Angelone 530 US 156.....RARG- 4, 9
Re Gault 387 US 1 ..... DCAF-50;
Reagan v Farmer's Loan & Trust Co. 154 US 362
....DCLM-15; B-32; RARG-10
Reeves v Ernst & Young 507 US 170.. . DCLM-48,49
Reeves v Sanderson Plumbing Products, Inc.
530 US_133.....RARG-5
Reno v. American-Arab Anti-Discrimination
Committee, 525 US 471..... RB-2
Richardson v United States 526 US 813
.....B-32-33; RB-11; RARG-13
Rooker-Feldman doctrine.....B-27
ROOKER v. FIDELITY TRUST CO.
261 US 114, [1923].....RARG-7
ROOKER v. FIDELITY TRUST CO.
263 US 413, [1923-24] RARG-7
Rotella v Wood, 528 US 549.....RARG-6, 16
SAINT FRANCIS COLLEGE v AL-KHAZRAJI
481 US 604.....RB-9,14; RARG-12,13
San Antonio Indp. School Dist v Rodriguez
411 US 1.....DCLM-25;
Schall v Martin 467 US 253..... DCLM-27
Scheuer v Rhodes 416 US 232... ....B-41; RARG-5,10,18
SCHLUP v DELO 513 US 298.....RB-19
Schmuck v US 489 US 705..... DCRR-12
Schware v Bd Of Bar Examiners of N. Mexico
353 US 232 ....DCRM-8
Sedima S P R L v. IMREX Co.
470 U.S. 479..... DCRR-1-5,18; B-39; RARG-15

Shuttleworth v Birmingham 382 US 87
.....DCLM-26: RARG-9, 11
Simmons v South Carolina 512 US 154.....RARG-4
South Central Bell Telephone Co. v. Alabama
526 U.S.160.....RB-4
Spinelli v US 393 US 410..... DCRM-5
Storer v Brown 415 US 724.....RARG- 9
Strickler v Greene 527 US 263.....RB- 18
TXO Productions v Alliance Resources
509 US 443 .....DCRM-10
Teamsters v Terry 494 U.S. 558.....B-41;.....RARG-17
Texas & Pacific R. Co. v Rigsby, 241 US 33..... RARG- 18
Treinies v Sunshine Mining Co 308 US 66..... DCLM-12
United Brothjerhood Of Carpenters & Joiners, et al v
Scott 463 US 825.....DCLM-24, 26
United Mine Workers v Gibbs
383 US 715..... DCLM-7, DCAF-2;
UMW v Illinois State Bar Assn 389 US 217..... DCLM-21
United States v. Armstrong, 517 U.S. 456.....RB-21
U. S. v Culbert 435 US 371.....DCRR-19,
UNITED STATES v FRADY 456 US 152..... RB-17
United State v. Haggar Apparel Co.
526 US 380.....RB-7,13; RARG-11;
U. S. v. Lanier; 520 US 259 (1997) B-33
U. S. v. Lee 106 U. S. 196 DCLM-17;... ..B-32; RARG-10;
U. S. v Marine Bancorporation 418 US 602 .....DCRM-9
U. S. Payner 447 US 727 ..... DCRM-10
United States v. Shipp. 214 US 386..... RARG-18
US v Throckmorton 98 US 61 [1878]..... RARG- 12;
United States v. Turkette,
452 US 576.....DCRR-9; B-19;....RARG-17
U. S. v. Wong, 431 U.S. 174 ....RB- 6
Van Cauwenberghe v Baird 486 US 517 ..... DCLM-19
Village Of Willowbrook, et al v Grace Olech
528 US 562.....RARG- 9

Westfall v United States 274 US 256..... DCAF-2
WILSON v GARCIA 471 US 261, RB-1
Wilson v Layne 526 US 603.....
.....B-29-30,33; RB-13; RARG-9,13
Wong Wing v US 163 US 228 .....DCLM-31,32
Wright v. Universal Maritime Service Corp.
525 US 70..... RB-20
WRIGHT v WEST 505 US 277..... .....RB-4
Wyoming v. Houghton 526 U. S. 295..... RB-8
Zauderer v Office of Disciplinary Counsel
471 US 626.....DCRM 8, 9

U. S. Circuit Court Cases

Adickes v Kress & Co. 409 F 2d 121; [CA2NY]
.....B-19; RARG-19
Attica inmate cases 477 F 2d 375, 498 F 2d 802, 885 F 2d
1060 and several others..... .....B-13; RARG-13
B. F. Goodrich v Betkoski 99 F 3d 505 ..... DCRM-7
Berman Enterprises, Inc. v Jorling 3 F.3d 602,
(CA 2 NY) 1993; DCLM-20; B- 34; RARG-13
Bivens v Six Unknown Fed. Narcotics Agents
409 F 2d 718 (CA2NY).....RARG-19
Butz v Economou 535 F 2d 688.....RARG-19
Bryant v Maffucci 923 F 2d 929.....DCRM-2
Cabrera v Jakabowitz 24 F 3d 372.....DCLM-23
Casas Office Machine Inc. v
Mita Copystar America, Inc 42 F 3d 668....DCRM-1
Colon v Coughlin 58 F 3d 865.....DCLM-25, 43
Cosmas v Hassett 886 F.2d 8, (CA2 NY).....B-25
Crowley v Courville 76 F 3d 47;.....DCLM-34, 36-37
Evan v Technologies Application & Service Co
80 F 3d 965.....DCRM-1
Franco v Kelley 854 F 2d 584 ..... DCLM-43
Galliardi v Village Of Pawling 18 F 3d 188.....DCLM-43

Gibeau v Nellis 8 F 3d 107.....DCLM-23
Graham v Henderson 89 F 3d 75.....DCLM-43
Hudson River Sloop Clearwater Inc. v Dept. Of Navy
.....891 F 2d 414.....DCRM-2
Jones v Alfred H. Meyer Co. 378 F. 2d 33 ..... RARG-2
reversed by the USSC under **392 US 409** [1968].
Kaluczky v City Of White Plains 57 F 3d 202..DCLM-22,38
Kashelkar v MacCartney (Docket No. 00-7090)
(CA2NY) .....B-16, RARG- 16
LeBlanc Sternberg v Fletcher 67 F 3d 412
DCLM-23, 24, 33
Lee v National Life Asnc Co Of Canada
632 F 2d 524;..... DCRM-1
McKenna v Peekskill Housing Auth.
647 F 2d 332..... DCLM-23
Mian v Donaldson, Lukin & Jenrrette Corp.
7 F 3d 1085 .....DCLM-25
Newburger, Loeb & Co. Inc. v Gross,
563 F 2d 1057, [CA2NY 1977].....RARG-12
Oliva v Heller 839 F 2d 37 (CA2NY).....RARG-13
Paddington Partners v Bouchard
34 F 3d 1132;..... DCRM-1
Quill v Vaco 80 F 3d 716.....DCLM-42
Re Unisys Sav. Plan Litigation
73 F 3d 420; DCRM-1
Ruby v Springfield R-12 Pub. School Dist
76 F 3d 420 .....DCRM-1
Sedema S. P. R. L. v Imrex Co.
741 F 2d 482.....RARG-19
Singer v Fulton Co. Sheriff 63 F 3d 110.....DCLM-25
Skolnik v Spolar 317 F 2d 857 (7th Cir. 1963)]...RARG-10
Snell v Tunnell 920 F 2d 673 [10th Cir]..... DCLM-25
Sharon v McDonald Corp 51 F 3d 353.....DCLM-1
Texaco v Pennzoil Co. [CA2NY] 784 F. 2d 1133
reversed on other grounds 481 US 1;

.....DCLM-40-41; B-38; RARG-11
1226 Orange Lake Assoc.In. V Kirkpatrick 1 F 3d 1214
.....DCLM-33, 34
U.S. v Angelilli 660 F 2d 23 [CA2NY 1981].....RARG-15
U.S. v. Fornaro, 894 F.2d 508.....RB-6
U.S. v. Girdner, C.A. 10 (Okla.) 773 F.2d 257,
certiorari denied 475 U.S. 1066,.....RB-6
U.S. v. Kross, C.A. 2 (Vt.) 1994, 14 F.3d 751,
certiorari denied 513 U.S. 828, ...RB-6
U. S. v. Morrris Eisen in
974 F. 2d 246.[CA2NY].....RARG-12
U.S. v Nelson 68 F 3d 583 ..... DCRM 9
U. S. Rubin 844 F 2d 984 ..... DCLM-24
Wright v Smith 21 F 3d 496; DCLM-25;
Zahra v Town Of Southhold 48 F 3d 674 DCLM-39

U. S. District Court Cases

Doe v Smith 704 F Supp 1177 DCLM-25
Paula Jones v. William J. Clinton
.....[USDC Arkansas].....RARG- 10, 18
Pisello v Town Of Brookhaven 933 F Sup 202 DCLM-33
Morin v Turpin 711 F. Supp. 97, (SDNY)..... RARG- 16
U. S. v DCS Development Corp 590 F Supp 1117
.....DCLM-14

New York State Constitution, RB-10; RARG-10
Article 1, section 11 B-7, 38; RARG-15
Article 1, section 2 B-23

New York State CPLR RB-10; RARG-11
Section 213 B-25; RARG-213
" 1003 B-13;

"	2215	B-9, 28,
"	2218	DCLM-9; B-22, 23; RARG- 15
"	3020	B-4,
"	3211	B-14,
"	3212	DCLM-9; B-9, 22; RARG-15
"	5015	B-19,
"	8303(a)	DCLM-9

NYS Judiciary Law

Section 36	DCLM-15
Section 173-b	DCLM-15
Section 197	DCLM-15

Title 11...New York Court Rules & Regulations

216 *et seq.* DCRM-10

Title 22.... New York Court Rules & Regulations

22 NYCRR et seq. RARG-11
Section 202 et seq DCLM-16; DCRR-22;
Section 208 *et seq* B-9, 12, 19, 24,
" 1200 *et seq.* B-5, 11, 17, 19, 21, 24, 28, 29,
" 31, 35, 37; RB-11, RARG-10

New York State Public Officer's Law

section 17.....DCLM-13, 14 B-34 ; RARG-10

New York State Penal Laws

Section	105.00	B-21,
"	105.05	B-17, 21,
"	105.10	B-17, 21,
"	105.13	B-17,
"	105.15	B-17, 21,
"	105.17	B-17, 21,
"	175.30	B-20, 21,
"	175.35	B-20, 21,

"	190.05	B-17, 21,
"	190.07	B-17, 21,
"	190.60	B-21,
"	190.65	B-21,
"	195.05	B-21,
"	195.07	B-21,
"	210.05	B-5, 20,
"	210.10	B-5, 20,
"	210.15	B-5, 20,
"	210.20	B-5, 20,
"	210.25	B-5, 20,
"	210.30	B-5, 20,
"	210.35	B-5, 20,
"	210.40	B-5, 20,
"	210.45	B-6, 12, 20,
"	215.10	B-17, 21
"	215.11	B-17,21
"	215.12	B-17, 21
"	215.13	B-17, 21
"	460.20	B-21

New York State Court Cases-
Cited In the District Court Motion Practice

Assn Of Surrogates v State 78 NY 2d 143 .DCAF.....6
Auerbach V Board Of Education 86 NY 2d 198....DCAF.. 6
Bath & Hammondsport RR v DEC 73 NY 2d 434...DCAF.7
Bloch v Bloch (1909) 131 AD 859 .....DCAF.....33
Blyn v Bartlett 50 AD 2d 442 ....DCLM-17
Bogart v Westchester County (1945)
270 AD 274.....DCAF..32
Bowery Sav.. Bank v 185 Montague Street
(267 AD 911.....DCAF. 33
Brotherton v New York State Supply Corp
48 Misc 2d 463.....DCAF...43,44

Bukhatir MacKinnon, Ltd. v Sarfraz
130 App Div 2d 358.....DCAF...66
Burns, Jackson v Lindner; 59 NY 2d 314.....DCAF..63
Catlin v Sobol, 77 NY 2d 552.....DCAF...7
Channel Master Cop. V Aluminum Ltd.
4 NY 2d 403, ...RARG-12
City Of Rochester v Diksu Corp
47 Misc 2d 407.....DCAF.25
Cohen v NY Property Underwriters
410 NYS 2d 597.....DCAF..17
Dahlstrom v Gemunder 198 NY 449 (1910)....DCAF...25
Dorsey v Stuyvesant Town Corp. (1949) 299 NY 512.
cert den 339 US 981 .....DCAF..5
Edwards v MacArtney (1920) 193 AD 334 ....DCAF...33
Feldman v New York City Transit Authority
171 AD 2d 413.....DCAF. 54
51 St. Nicholas Realty Corp. v City of New York
218 AD 2d 343.....DCAF.44
Friends of Animals, Inc. v Associated Fur Mfrs., Inc. .
61 App Div 2d 141 revd on other gds (1979)
46 NY 2d 1065.....DCAF 41
Gilberg v Lennon 193 AD 2d 646 .....DCAF.32
GLIELMI v TOYS 'R' US; 62 NY 2d 664.....DCAF 31
Harvey & Corky Corp. v County of Erie .....DCAF..6
56 AD 2d 136
Johnson v Andrews (1901) 34 Misc 89.....DCAF.33
Kirkeby-Natus Corp. v Gevinson 33 AD 2d 883 ...DCAF 34
Kirschbaum v Eschmann, 205 NY 127 (1912)...DCAF..25
Korn v Korn (1977) 56 AD 2d 837 .....DCAF.35
Kronish, Lieb, Shainswit, Weiner & Hellman v
John J. Reynolds, Inc.33 App Div 2d 366.....DCAF..41
LANDAU v PERCACCIOLO; 50 NY 2d 430 ....DCAF 31
Lapis v Palmer 216 AD 2d 367.....DCAF..35
La Rocca v Lane, 37 NY 2d 575.....DCAF...59
Manning v Turtel 135 AD 2d 511.....DCAF...45

Marable v Robinson (1979) 102 Misc 2d 96 aff'd
(1981, Sup App T) 114 Misc 2d 437.....DCAF....45
Marshall, Bratter, Greene, Allison & Tucker v
Mechner (1976) 53 AD 2d 537.....DCAF.35
Martin v Albany (1977) 42 NY 2d 13.....DCAF....5
MATTER OF LEAKE v SARAFAN
35 NY 2d 83.....DCAF.30
National Bank of Northern NewYork v Grasso
79 AD 2d 871.....DCAF35
NewYork City Transit Authority v
White (1989) 75 NY 2d 734..DCAF- 45
Paige v Willet (1868) 38 NY 28.....DCAF.33
People v Ahmed 66 NY 2d 307
..... DCLM-16; B-35; RARG-9,10,13
People v Finnegan 85 NY 2d 53.....DCAF 6
PEOPLE v. HANNON 50 MISC 2d 297.....DCAF 21
PEOPLE v. JONES 118 AD 2d 86.....DCAF.21
People v Kern (1990) 75 NY 2d 638.....DCAF.6
People v Lane 10 NY 2d 347; .....DCRM.7\8
PEOPLE v MOSES 63 NY 2D 299.....DCAF 21
People v Rosenberg (1978) 45 NY 2d 251.....DCAF 8
PEOPLE v RUSSO 124 MISC 2d 438.....DCAF 23
PEOPLE v UHREY 169 MISC 2d 1015.....DCAF.22
People v Van Rensselaer (1853) 9 NY 291 ....DCAF-32
Post v Lyford (1954) 285 AD 101.....DCAF- 33
Prindle v Carruthers (1857) 15 NY 425 .....DCAF-33
Re Greene (1994, 2d Dept) 205 AD 2d 218.....DCAF-20
Re Heburn (1994) 84 NY 2d 168.....DCAF-22
Re Kaiser (1985, 1st Dept) 108 AD 2d 510....DCAF-21
Re Robinson 70 AD 2d 209..... DCLM-16
Re Sabatino (1977) 59 AD 2d 992.....DCAF-35
Roconova v Equitable Life Assnc Society
83 NY 2d 603.....DCAF-.27, 62
Rouse v Champion Home Builders Co. (1975)
47 AD 2d 584.....DCAF-.32

SCHWARTZ v. PUBLIC ADMINISTRATOR
24 NY 2d 65.... .....DCAF-.72
Stanley Tulchin Assoc., Inc. v Vignola
186 AD 2d 183.....DCAF-51
State v Corlelle Corp. (1972) 73 Misc 2d 352,..DCAF-.51
affd 43 AD 2d 668 mod on other grounds 38 NY 2d 83
Stowell v Berstyn (1006) 26 AD 2d 828.....DCAF-34,41,44
Stowell v Cicero Cheese Mfg. Corp.
100 AD 2d 736.....DCAF-..41,44
Sullivan v Traders' Ins. Co. (1901) 169 NY 213....DCAF-33
Tamimi v Tamimi 38 AD 2D 197 ....DCAF-.RARG-12
I. Tanenbaum Son & Co. v Brooklyn Furniture Co.
229 AD 469 aff'd 255 NY 579.....DCAF-34
Temple Marble v Union Marble 87 NY 2d 574..DCAF-.6
Thompson v Postal L. Ins. Co. 226 NY 363...DCAF-32
Union Bank v Bush (1867) 36 NY 631.....DCAF-33
United Knitwear Co. V Northsea Ins. Co.
203 AD 2d 358.....DCAF-.64
Van Iderstine Co. v Barnet Leather Co.
242 NY 425..... .....DCAF-.32
Vanek v Mercy Hospital 135 AD 2d 707.....DCAF-.51
Wood v Wood (1980) 104 Misc 2d 109.....DCAF-32

Treaties & Reference Book

2nd Restatement of Torts and
"Prosser & Keerton" On Torts.. West Publishing Company.
REARG-

By Ashok Kashelkar
Plaintiff-Appellant

Petitioner, herein

Portion Of The Petitioner's Appellate Brief is reproduced

The jurisdictional statement

I filed this action pursuant to United States Statutes, in the U.S. District Court, on July 14, 1999, Southern District of New York; against all the defendants named in the action, for Fraud, Extortion and Obstruction of Justice under Title 42 for Civil Rights Violations and Title 18 for RICO violations by all the defendants,

The defendants moved under **FRCP Rule 12** and **Rule 56** and after an initial conference, on Nov. 05, 1999 and my submitting the responses, in opposition; pursuant to the "guidelines of the Court"; the district court dismissed all of my claims; by an order dated December 22, 1999. The clerk of the District Court of entered a judgment on December 27, 1999.

Pursuant to **Rule No. 4** of Federal Rules of Appellate procedure, I filed a notice of appeal in the District Court January 19, 2000 and paid the required fee of $105.

This appeal is taken from each and every part of the final order and judgment entered in the District Court in this matter.

Statement of issues presented for review

1) I have presented my claims, pursuant to the applicable Statutes and Rules and request reversal of the District Court Judgement, reinstate my claims, for conclusion

by a Trial before impartial Jury, with complete protection of Law Of The Land.

2) Do the attorneys engaged in Law Practice ***have immunity***, protection or waiver under the laws and constitution of the United States.

A. That permits them to perpetrate misconduct during the course of judicial proceedings in this jurisdiction.

B. That permits the attorneys to escape from "application of laws" to their misconduct; wherein they do not have to answer to anyone, in Civil Litigation.

C. Permits such [in A & B above] attorneys to inflict damages to the rights of other individuals with impunity and not have to stand trial in a Civil Action; before an impartial jury, in a Federal court.

D. Is it proper for the Courts to "impliedly or implicitly" offer protection-to attorneys, that is explicitly not provided by Constitution or the laws ?

3) Is it proper for a Federal Judge to "instruct" to *change* transcript of *any proceedings in Courts*; without notice, consent or acquiescence of "a" participating litigant appearing before the Judge; then not even notify "the" litigant, that *"transcript has been changed"* and violate litigant's constitutional rights for Due Process and Equal Protection Of Laws, guaranteed through the Fifth Amendment of the U. S. Constitution.

4) Is it proper for a Judge, either in the State Courts or

in the Federal Court to ignore the mandates of the Congress and the U. S. Supreme Court and *railroad* a litigant ?

Statement of the case.

This case arises out of the defendants knowingly perpetrating multiple frauds, extorting my rights and property, during a N. Y. State judicial proceedings I filed in Rockland County against a motorist and their insurance company, in March 1995.. OMCDOC ands counsels made false statements, in their verified answer. That "falsification" referred to the "central issue of the insurance company conduct [GEICO] violating Laws and Rules, while it improperly processed my claim.

During the ensuing motion practice, the defendants commenced; and in response to which, I procured admissible proof [in spite BM's misconduct] from NYS Insurance Department; in support of my claims. All the defendants engaged in conspiratorial acts, used U. S. Mail and Private Mail Carriers; interfered with my Constitutionally protected rights, defrauded me of equal protection of laws, guaranteed by the New York State constitution, abused the State judicial process, all with the help of Law Clerk of Supreme Court Justice-in Rockland County, NY; who usurped authority and abused power in total contradiction of the State and U. S. Constitution and Laws; to deprive me of my rights as well as my property.

The defendants deprived me of "potential recovery", I would have made from the defendant GEICO, besides the recovery of all other damages, including those to my vehicle. The defendants obtained "judgements by Fraud" for their clients [who are not party to this action]. In the State Appellate

process, all my pleas to reverse those judgements, were ignored.

I have not asked, for "reversal" of the State Judgements, in this Federal action.

I filed this action, against the individuals and entities, named in the Summons and Complaint, responsible to cause damages to my rights and property, pursuant to **42 USCS 1981**; **42 USCS 1983; 42 USCS 1985** as well as under **18 USCS 1961**, *et seq;* upon my finding and understanding the "mechanism of their fraud", in order to state my claims under the Federal Rules Of Civil Procedures.

My complaint contains, Statement Of Facts [chronological statement of events describing over 20 major and some minor transactions]; Conspiracy to Defraud- that alleges actions of the defendants engaging in conspiracies; Principles and Basis of Civil Rights-outlining the-Statutory and Decisional base of my claims; Criminal Conduct of CD-outlining the criminality in the defendant's multiple transactions and RICO; outlining the elements required constituting RICO claims-including clear allegations of each defendants violations. In addition to which, a "Formal Complaint" of 16 counts, against all the defendants, brings together the "essential elements of all of the above sections" with demands for relief. I have also attached part of the "State Proceeding" as Exhibits, with the complaint, that was filed and served, on all defendants.

Summons and complaints were filed and served on the defendants, pursuant to the FRCP Rules; the defendants, appearing through their counsel [Except that HYM and MMKM appeared Pro-Se] moved to dismiss the action pursuant to **FRCP Rule 12** and **FRCP Rule 56** to which I submitted my opposition's but the District Court in granted

the motions of all the defendants and by case has been dismissed.

District Court stayed all discoveries and non was conducted

Statement of Facts

In view of multiple transactions, forming the basis of this action, each one of them has been reported separately and some are analyzed [including statutory reference] in detail for the violations of statutory provisions, showing relationship in presentation.

Transaction No. 1: OMCDOC counsel Daniel Miller, prepared, verified (pursuant to **NYS CPLR** section 3020), served the answer by " U. S. Mail" [AK Exhibit No. P-01], in behalf of GEICO (a def. in State action), containing false statements. That is *alleged* in detail, in SOFACT Para 31, 32,33, 34, 35, 36, 37, 95; supported by AK Exhibit No. P-01 and P-01-X and HYM Exhibit "H". The answer verified, under penalty of perjury by OMCDOC, served upon this plaintiff as well as upon MMKM by U. S. Mail (SOFACT PARA 29), is materially false. The very act of OMCDOC "perjury" is *further alleged* in Civil Rights [Federal suit] section Para 22.d to 22.m) on page 5 and 6; *and further alleged as* detailed in "Criminal Conduct" of [Federal Suit] in Para 1\page 1 to para 5 \ page 2. OMCDOC's penal violations are *alleged* in "Criminal Conduct" section of [Federal Action] under Statutory Penal Violations in Para 17.a \ page 6 to para 17.c \ page 6. The penal violations are "collectively" *amplified* further in this section. The effects of OMCDOC perjury are further *alleged* in "Criminal Conduct" para 17.d \ page 6 to para 17.l \ page 8 OMCDOC answer is materially false, because, AK in his "State action complaint" [Exhibit P-00], in paras 30 to 47 *alleged*, that GEICO failed

to train, supervise, manage, educate it's employees leading to GEICO's failure to settle AK's property damage claim according to the NYS Insurance Law and that GEICO were *cited and "fined"* by the insurance department. These *allegations* are supported by the Public Record of NYS Insurance Department shown in [Exhibits P-01A, P-17 and P-17A].

Not only that, but counsel Miller also violated his "oath of office" and failed to conform to the conduct mandated by **22 NYCRR 1200** et seq. In fact, counsel has shown *"reckless disregard"* in "falsely swearing" such an answer after "failing to conduct" necessary inquiry, with their own client [GEICO] to verify, if the "allegations in AK's State Action complaint [Paras 30 to 47 of AK Exhibit P-00], were valid or not". Simple inquiries of that nature would have and should have shown to counsel Miller, that, AK's *allegations* were then accurate and *are accurate, even now*.

AK has *extensively commented about* GEICO employee failures, in his own affidavit of July 14, 1995; that is HYM Exhibit "M", herein and is also supported by AK Exhibits attached to his affidavit, in this action, under No. P-40.

Counsel Miller's "false statement" under oath, **is perjury** under the **NYS Penal Laws** sections 210.05, 210.10, 210.15, 210.20, 210.25, 210.30, 210.35, 210.40. Out of them 210.05, 210.35, 210.45, are **"A" Class Misdemeanors**; 210.10 & 210.40 are **Class "E" Felonies**..each earning 4 years of incarceration upon conviction; 210.15 is **Class "D" felony**, that earns 7 years, upon conviction. All of which are imputed to OMCDOC.

AK did raise issue of "perjury by OMCDOC counsel" in his affidavit of July 14,1995 [HYM Exhibit "M"] and discussed

it in, every detail. AK expected the Rockland Court to "act properly upon finding the *issue raised* but failed to do so. AK contended, through the State Court Appellate process, that Rockland Court *tolerated* OMCDOC perjury, *as exhibited* in one of the four " RADI-forms, I completed and filed in the Appellate process;. please see P-31, HYM Exhibit "II"] . The issues have been argued in AK's appellate brief [see HYM Exhibit "SS"] and was later raised in the Jurisdictional Statement to NYS Court Of Appeals [HYM Exhibit "WW"] and then in letter to NYS Court Of Appeals [HYM Exhibit "YY"].

Transaction No. 2: OMCDOC [backdated]letter, dated June 02, 1995, under signature of William R. Watson; mailed by "U. S. Mail" on June 14, 1995 (*alleged in*, Sofact para 59); in violation of **18 USCS 1341**.. The "false statement, in written instrument" is violation of NYS Penal code 210.45, that is an "A" misdemeanor. This is under signature of William R. Watson, ESQ.

Transaction No. 3: OMCDOC Motion (AK Exhibit P-05 and P-06) to strike AK's bill of particulars (AK Exhibits P-04A) , dated June 29, 1995; served on AK through U. S. Mail (*alleged* in Sofact para 66, 95) and also served upon MMKM; includes "GEICO's answer, falsely verified by OMCDOC [Transaction No. 1 above]"; was also "filed" in Rockland County Court, by U. S. Mail. It was also served through U. S. Mail upon MMKM. That "motion" is HYM Exhibit "J". DD filed it, with the "Notice Of Motion" AK Exhibit P-05 and P-06.

Deborah Dillon [DD], prepared her affirmation [HYM Ex. "J"], and DD served and filed the motion, in Rockland Court, containing "falsely verified answer by counsel Miller of OMCDOC," *as alleged* in "Criminal Conduct" section in

Para 8\ page 3 to Para 11 \ page 4.The *effects* of OMCDOC perjury are further *alleged* in "Criminal Conduct" para 17.d \ page 6 to para 17.l \ page 8. Para 7 \ Page 3 to Para 10 \ Page 4, discuss the *allegations* of "subornation of perjury by DD, Watson and OMCDOC".

Transaction No. 4: AK called Bruce Muldoon, on July 05, 1995 and July 06, 1995; (*allegations* in Sofact paras 73 to 76) for obtaining "so ordered" subpoena, from J. Meehan and in the telephone conversation, Bruce Muldoon denied access for AK to reach J. Meehan.

I have alleged, in "Conspiracy To Defraud" section [Of Federal suit] beginning Para 1 \ Page 1 to Para 2 f-7 \ Page 3, that; BM conferred with "other defendants" . These acts of "consulting, conferring" were in fact "conspiratorial in nature". The act of "consulting and conferring" was the part of the "scheme to defraud" AK of his rights and property. There was "no reason nor any "rationale", for BM; to refuse access, for me to J. Meehan.

I have also *alleged*, in **"Civil Rights"** section para 22 n to Para 23 \ page 7; para 24 \ page 8 to para 48 \ page 18; relating to BM's actions, violating AK's Civil Rights. BM being an employee of NYS, committed the violations as a State actor, as alleged in para 49 \ page 18 to para 65 \ page 22, without any authority, to do so. Thereby, BM "assumed the risk"

In this manner, BM personally *"impaired"* AK from accessing J. Meehan, the N. Y. State Constitutional authority, for a "judicial matter" and prevented AK from "accessing a state created benefit", under the State Law. BM's *"imposing" pre-conditions* and directing AK to engage in motion practice, contrary to Practice of New York

Metropolitan Area NY Courts in application of CPLR; were *"impediment or impairment"* to AK's in violation of **42 USCS 1981[c]** Protection against impairment.. Under color of state law. BM's actions, were direct violations of **42 USCS 1981(a)**.... that entitles AK to receive..."the full and equal benefits of all laws and proceedings for the security of persons and property as is enjoyed by white citizens".... BM denied "that" benefit of "laws and proceedings" to AK.

The **N. Y. S. Constitution, Article 1, section 11** guarantees.. "equal protection of laws and prohibits discrimination in Civil Rights.."... That itself required BM, to comply with the N. Y. S. Constitution and the legislated CPLR. BM, directly violated **42 USCS 1983**, by "depriving rights, privileges and immunities secured by the constitution and laws"; guaranteed under 14th amendment of U. S. Constitution, for AK to approach J. Meehan.

BM's making personal choice to deny "equal rights" to AK; guaranteed by the NYS Constitution [cited above] was violation of **42 USCS 1983**, while he abused his authority and usurped power, he did not possess.

Hence, BM's above described actions violated **42 USCS 1985(2),** wherein BM, *personally*... "impeded, hindered, obstructed and defeated the due course of justice in the State Of New York"..... to AK. BM *set in motion,* the "absolute discriminatory conduct, leading to the "ultimate" determination dismissing [P-22 and P-33] ", AK's Rockland Action.

BM's above described acts, violated **42 USCS 1985(3)** wherein he "denied equal protection and privileges under the laws as described heretofore.

In this transaction, BM violated **18 USCS 1512(b)(2)(C)..** evade legal process summoning a witness, or to produce record, documents or other object, in an official proceeding, as result of his personally denying access for AK to approach Meehan, for a "so ordered" subpoena; *as alleged* and thereby violated **18 USCS 1961(1)(B)**, causing further violation of **18 USCS 1962(b)** and **18 USCS 1962[c]** triggering violation of **18 USCS 1962(d),** triggering **18 USCS 1964[c],** for claims of Civil damages.

These violations triggered USDC jurisdiction pursuant to **18 USCS 1965**

This will demonstrate, that, by perpetrating "ONE ACT"; BM violated several State and Federal, Civil and Penal Statutes along with provisions of State and U. S. Constitution.

Transaction No. 5: AK's cross Motion against GEICO, was sent to OMCDOC and MMKM, through U.S. Mail (*allegations* Sofact paras 78 to 101) and AK Exhibit P-09. The primary proof [AK Exhibit P-01A] demonstrated that, AK's 2nd and 3rd causes of action against GEICO were accurate and true. Since, Bruce Muldoon prevented AK from obtaining a "so ordered" subpoena [described in transaction No. 4 above] AK was left without any choice and could not produce the "admissible proof" in the form of AK Exhibit P-17 and P-17A; prior to July 14, 1995. The "*impairment* of an "*unfair state judicial proceeding*" had commenced. The very act, of AK in opposing the "fraud by OMCDOC counsels" [then so known] was the basis AK's cross Motion, that is HYM Exhibit "M". Since AK sent the "Cross Motion" by U. S. Mail, exposing the defendant's fraud and that OMCDOC as well as MMKM received it, *receipt of the cross motion* [

re their fraud] caused them to violate **18 USCS 1341 under 18 USCS 1961(1)(B).** This act "triggered" my claims for Civil damages under RICO, fort reasons cited in transaction No. 4.

Transaction No. 6: AK received MMKM letter and motion, through Airborne express (*allegations* in Sofact Para 108 to 136) AK Exhibits P-13 . The letter (AK Exhibit P-13 & HYM Exhibit "R") *unilaterally sought* "return date adjournment" of Geico motion, from July 21, 1995 to August 18, 1995. The Levine Cross motion for **CPLR 3212,** summary judgement was filed in violation of **CPLR 2215** (described in full details in Sofact paras 108-136).

This was the "first major act by HYM and MMKM", commencing to defraud AK [and also save OMCDOC from any embarrassment with GEICO { for losing a Summary Judgement motion to a pro-se litigant }], that developed into a "scheme" in itself, to help OMCDOC and GEICO; their "mutual principal". HYM's success in "*unilateral* adjournment of GEICO motion" and **CPLR 3212** motion, untimely filed under **CPLR 2215** and then "adjourned" in violation of 22 NYCRR 208, *et seq*; caused HYM to commit the following penal violations.

AK has alleged, in the Sofact Paras 123 to 139; that AK never "knew of the [HYM's] intended adjournment "scheme", never consented to any adjournment nor received any communication from Meehan J. or BM of any nature, either inquiring or notifying, about the [HYM proposed] adjournment" and therefore was defrauded, in the "judicial process". [In fact HYM *has admitted most of the allegations, affirmatively,* through his answer, filed in the Federal Action-that is analyzed in detail-in my Affidavits of Dec. 06, 1999 and Dec. 17, 1999; opposing the defendant's

Motions.]

AK has also *alleged*, in the Federal Suit, in the section "Conspiracy to Defraud" that BM consulted with HYM and MMKM beginning in Para 1 \ page 1 to Para 2 f-7 \ page 3, relating to the "Transaction No. 4" and then from Para 3 \ Page 3 to para 6 \ page 12. AK has further *alleged*, in the section **"Civil Rights"** from Para 22 n \ Page 7 to para 48 \ Page 18; referring to the actions of HYM and MMKM. In the same manner, *allegations* in the section "Criminal Conduct" beginning para 6 \ 3 to para 17 e \ page 7 to Para 17 n \ page 8 are applicable to HYM and MMKM.

HYM, through his letter [P-13] corruptly persuaded BM to adjourn the " GEICO Motion's return date", without AK's consent [that HYM has admitted in his answer, in this action]. How could HYM, unilaterally "write the letter to te Court, unless he acquired knowledge, that, neither DD nor Watson were in OMCDOC office, in the week of July 17, 1995. HYM has absolutely perfect knowledge, that OMCDOC, could not respond to AK's Cross Motion, before the Return date of July 21, 1995; notwithstanding to all his claims, to the contrary, in his Summary Judgement affidavit.

In fact, had the "GEICO motion not been adjourned" from July 21, 1995 to August 18, 1995; then, AK was entitled to "receive Partial Summary Judgement, in his favor, under **CPLR 3212**"; upon "submission" of the Motion, on the return date of July 21, 1995.

Even if it is argued, that, the "admissible documents" (P-17 and P-17A) were not submitted, with July 14, 1995 affidavit { HYM Exhibit "M" }[because BM prevented AK from obtaining a subpoena { Transaction No. 4 }] and was denied Trial of Issues raised on Motion { in Transaction No. 5 }; on

July 21, 1995 and "because the admissible proof was submitted later"; even then, under "consolidation of all Motions [Please see Court Order P-22], P-17 and P-17A; "the admissible proof were required" to be accorded the judicially mandated weight and consideration, in determination of the Motions and that AK should have received Partial Summary Judgement, against GEICO"

The *denial of "partial Summary Judgement to AK, on Liability", was the ultimate Fraud against AK, by all the Federal defendants.* That is where AK lost his "potential and substantial recovery from GEICO" [State Defendant] and that is where, all the defendants "perpetrated the Civil Rights" violations, against AK.

The principal object of the [P- 13] letter, was to "adjourn" the return date from July 21, 1995 to August 18, 1995; to "assist OMCDOC and create an opportunity for OMCDOC to respond, to AK's cross Motion, to avoid the financial and legal disaster to GEICO". That adjournment adversely affected "AK" and it *affected the final outcome* of AK's State action.

HYM committed Statutory violation of **42 USCS 1981(c),** *by impairing AK,* from proceeding in the State action, according to the NYS Constitution, the **NYS CPLR** and **22 NYCRR 1200** *et seq.*

In this "single" act, of *adjourning motion* without AK's consent, by conspiring with BM, consulting with OMCDOC, by using a letter, sent through Airborne Express to the Court, AM and OMCDOC; HYM and MMKM violated **42 USCS 1981(a); 42 USCS 1981(c); 42 USCS 1983; 42 USCS 1985(2); 42 USCS 1985(3).**. As detailed in transaction No. 4, above.

In fact, the same acts violated **18 USCS 1512(b) ; 18 USCS 1512(b)(2)(A) and 18 USCS 1512(b)(2)(C)**. under **18 USCS 1961(1)(B)**

By *drafting, sending and filing the letter* [P-13], that contains "false statement" creating impression, that AK had consented to an adjournment and "by mailing it", as a part of the scheme, HYM violated **NYS Penal Code** 210.45 [Class "A" Misdemeanor] and violated **18 USCS 1961(1)(A)** [*Extortion, chargeable under state laws*]. For mailing it by Airborne Express, to AK, to The Rockland Court and OMCDOC, HYM earned *THREE violation* under **18 USCS 1341** and **18 USCS 1961(1)(B).**

The wheels to "dismiss AK's State action were *set in motion*, by all defendants; upon HYM's receiving AK's cross Motion [HYM Exhibit "M", herein].

I have alleged, that *BM was the "pivotal and instrumental party"* in this transaction, and received the [P-13] letter from HYM, by Airborne Express and hence, has violated all the above State as well as federal penal codes. This is where the NYS **CPLR** and **22 NYCRR 208**, required BM to act lawfully and reject HYM's letter, for adjournment. BM violated 18 USCS 1961(1)(A)
[*Extortion, chargeable under state laws*]. For receiving [P-13] by Airborne Express, BM earned a violation under **18 USCS 1341** and **18 USCS 1961(1)(B)**.

Transaction No. 7: OMCDOC sent a letter dated July 24, 1995, to the Rockland Court (*allegations* in Sofact paras 141 to 147) and AK Exhibits P-15 and P-16; further confirming "their request, to adjourn the return date from July 21, 1995 to August 18, 1995.In addition AK, in the Federal Suit, has *alleged*, in **"Conspiracy To Defraud"**

section para 7 \ page 12 to page 13, the actions of DD and OMCDOC in concert with other defendants. The conspiratorial conduct is also *alleged*, in **"Civil Rights"** section, from para 22 n \ Page 7 to para 48 \ page 18. In this manner DD, OMCDOC and Watson became "state actors" as alleged in para 66 \ page 22 to para 69 \ page 23.

This letter [P-15] was, "supplemental to HYM letter [P-13], affirming a "late request for adjournment". The fact, that OMCDOC and DD sent this letter to Meehan J. (but intended for BM) shows that, "the scheme to defraud AK had taken a solid footing" amongst all the defendants herein.

The very fact, that, [P-16] **has a handwritten remark**, *inquiring* whether AK (denoted by a Greek alphabet II - meaning plaintiff) agrees to the adjournment. I have already *suggested, that, Meehan J. wrote it, for BM, to follow and respond*. BM must testify and clarify, for this proceedings, who was responsible to write "that remark" and what "resulted" of that inquiry; between Meehan J. and BM. Therefore the DD letter [P-15, and P-16 ..with remarks] has become an "un-controverted" proof of the "defendant's scheme to defraud AK of his rights and property". BM *never acted*, on the "handwritten remark"[I would suggest that to be of J. Meehan], solely because, that would have "destroyed the arrangements". In this manner, BM got further involved in RICO and Civil Rights violations, in this transaction, as well. DD, OMCDOC violated **18 USCS 1961(1)(A)** [*Extortion, chargeable under state laws*]. For mailing [P-15] by U. S. Mail and earned a violation under **18 USCS 1341** [one for each def.] and **18 USCS 1961(1)(B)**.

Transaction No. 8: AK served his cross motion against Levines and mailed the same to MMKM and OMCDOC (*allegations* in Sofact Para 154 to 171) HYM Exhibit "T",

with AK Exhibits P-17 and P-17 A. The Exhibits P-17 and P-17-A are the material exhibits, which supported AK's causes of action against GEICO. They were attached, as soon as they were received from NYS Insurance Dept. They were also relevant, since AK was "opposing" HYM's Motion under CPLR 1003; relating to "severance" of the two action claiming "prejudice" to Levines but HYM never produced and "attached" any "affidavit" from Levines to support the claim.

Conduct of GEICO the insurance company (State action defendant) was under question. GEICO were the "real principals" of MMKM and HYM. HYM elected to "plead for GEICO", through his own affirmation [see HYM Ex "P page 5..bottom] asking to "deny" AK's cross Motion [HYM Exhibit "M"] against GEICO.

In the Sofact paras 113, 114, 115, 116, 117, 118, 120, 121, 123, 127, 129, I have *alleged*, that, MMKM and OMCDOC have *interchangeably* "argued" for the parties, each of them did not "directly represent", in Rockland action. In essence, they were protecting GEICO's financial interest, of the "potential loss" under 2nd and 3rd causes of AK's State action. There is "no question" that, AK's proof [P-17 and P-17 A] has remained and will always remain as un-controverted as a **"writing carved in hard black rock".**

After these transactions, " the scheme takes a different shape"

Transaction No. 9: OMCDOC filed their "Cross Motion" AK Exhibit 18 (*allegations* in Sofact para 172 to 190) that contains Geico's false answer (AK Exhibit No. P-01 and P-01-X) and then again served it upon this plaintiff (*allegations* in Sofact para 172) as a part of the motion

practice (Please see HYM Exhibit "V") on August 15, 1995 (See SOFACT Para 171-190) and the same was mailed to the Court, to MMKM by U. S. Mail. **RICO** violations.

DD and OMCDOC, "moved to dismiss" AK's State action, " for failure to state cause of action" that is [identical to the **FRCP Rule 12(b)6** motion]; through their Cross Motion of August 15, 1995; made returnable on August 18, 1995; the date, that was Extorted from AK. ***This motion was filed in complete violation of CPLR 3211*** [answers were served filed and ***my "admissible" proof*** for partial Summary Judgement was already on the Court record.]

AK in the Federal Suit, has *alleged*, in **"Conspiracy To Defraud"** section para 7 \ page 12 to para 9 page 14, the actions of DD and OMCDOC in concert with other defendants. The conspiratorial conduct is also *alleged*, in **"Civil Rights"** section, from para 22 n \ Page 7 to para 48 \ page 18. In this manner DD, OMCDOC and Watson became "state actors" as alleged in para 66 \ page 22 to para 69 \ page 23. This action also causes violations of **Civil Rights** and **RICO** statutes. DD & OMCDOC violated **18 USCS 1961(1)(A)** [*Extortion, chargeable under state laws*]. For mailing [P-15] by U. S. Mail and earned a violation under **18 USCS 134**1 [one for each def.] and **18 USCS 1961(1)(B).**

Transaction No. 10: OMCDOC served their "reply affirmation" dated August 18, 1995 [AK Exhibit P-18 A]; *allegations* in Sofact para 191 & 192. This was mailed to AK, MMKM and the Court. This reply affirmation, [HYM Exhibit "W"]was in further support of their own motion, [Transaction No. 3 herein]. In para 7, DD has denied, under Oath, that none of the counsel with OMCDOC violated their Oath, etc. DD, OMCDOC were perpetrating similar penal violations, as those in the transactions above and need not be

repeated, here. That is part of the same "scheme" and the "papers are served and filed to "solidify" their 'fraud' and use of U. S. Mail is made, to accomplish it, causing RICO and Civil Rights statute violations.

Transaction No. 11 OMCDOC served, mailed and filed their "affirmation in opposition" dated August 17, 1995 [HYM Exhibit "X"]; *allegations* in Sofact Para 194 to 197 and is AK Exhibit P-18 A and P-19. The objective of this was to "oppose" AK's Cross Motion for Summary Judgement [Transaction No. 5 herein]. This was a continuation of the U. S. Civil Rights Statutes violations, **42 USCS 1981(a); 42 USCS 1981(c); 42 USCS 1983; 42 USCS 1985(2); 42 USCS 1985(3)**.. as detailed above and are incorporated herein, by reference. DD & OMCDOC each violated **18 USCS 1961(1)(A)** [*Extortion, chargeable under state laws*]. For mailing [P-15] by U. S. Mail and earned a violation under **18 USCS 1341** [one for each defendant.] and **18 USCS 1961(1)(B).**

Transaction No. 12 AK served his "reply" oppositions to OMCDOC Cross motion and other oppositions [Transaction 10, 11 & 12 herein] *allegations* in Sofact paras 198 to 206. AK's affidavits in opposition are HYM Exhibits "Y" & "Z", in the Federal action.

Transaction No. 13. DD & OMCDOC then proceeded to write a letter, to Meehan J.; dated Sept. 05, 1995 [AK Exhibit P-20]. This letter is particularly directed at AK's litigation as a "Pro-Se" litigant, asking Meehan J. to "curtail AK's activity, in the Judicial Proceeding". This is direct and un-controverted proof, that, the GEICO counsels asked Meehan J. to deny the 1st amendment right, to present his grievances to Meehan J. under U. S. Constitution.

AK has *alleged* in Sofact para 208 *"re this letter"*. AK has also alleged in "Conspiracy To Defraud" section Para 12-13 \ page 16 and in the "Civil Rights" section, under Discrimination \ Pages 7-11 and Depravation \ Pages 11 to 13; referring to the "acts" reflected in the letter.

It is most interesting, that, DD complains of "not receiving notification of adjournment of the Motions to Sept. 01, 1995". Of course, she has not mentioned, that, there was no notification of the "first adjournment from July 21, 1995 to August 18, 1995- behind AK's back".

DD pleaded for "injunction" against AK's litigating the State Action. AK responded, to the DD letter by his own letter to the Court [AK Exhibit P-21].

DD perfectly understood the implication of the AK Exhibits P-17 and P-17-A and continued to Push for "dismissal" by one or the other means. DD found a "sympathetic BM", to "sway" the Court decision, for dismissal.

DD's writing the letter { P-20 } was direct violations of These acts are violations of **42 USCS 1981(a); 42 USCS 1981(c); 42 USCS 1983; 42 USCS 1985(2); 42 USCS 1985(3)**.. As described in the transaction No. 4, detailed above. As well as violations of **18 USCS 1341, 18 USCS 1512 *et seq*, under 18 USCS 1961(1)(B)** as detailed heretofore, in prior transactions.

Transaction No. 14. AK has *alleged* in Sofact para 211; in "Conspiracy to Defraud" para 22 \ page 19-20, BM directed the clerical staff to send a letter [P-21-A] to AK.. This act by BM was, to create a "smoke screen" and to mislead AK.

In causing this letter [P-21-A] to be sent to AK; BM

violated NYS Penal Code 190.05 and 190.07 as well as statutes relating to conspiracy, to wit sections 105.05, 105.10, 105.13, 105.15, 105.17 as well as tampering with witness, victim etc. sections 215.10, 215.11, 215.12; 215.13.The penalties, based upon the severity of the violation (Misdemeanor\level and Felony\level) are identified in prior transactions and are incorporated by reference. BM violated **18 USCS 1961(1)(B) and 18 USCS 1512 et seq** for mailing [P-21 A] by U. S. Mail and violated **18 USCS 1341** and **18 USCS 1961(1)(B).**

Transaction No. 15. Then came the decision of the Rockland Court [P-22], that was totally shocking to AK. The decision admits... 1) improprieties in Motion Practice... but does not identify how they were perpetrated, when they occurred and who were responsible for them 2) dismisses the actions against GEICO; even after "consolidating, all motions, to arrive at a decision". There is no reference to AK Exhibits P-17 and P-17-A; anywhere in P-22.

Since GEICO never presented any "affidavit of any of it's employees or officers" nor contested the P-17 and P-17-A [AK Exhibits], the action was dismissed, under the *"guise of No Private Right Of Action"* to AK [claiming--- AK did not have Privity of contract with GEICO].

AK has *alleged,* in Sofact Para 212 to 219.; as well as *alleged* in the "Conspiracy To Defraud" section under para 5-d 26 \ page 11 to para 22 \ page 19 and also *alleged* in the "Civil Rights" section, from Para 22-n \ page 7 to para 48 \ page 18; that the entire scheme to defraud was well planned, organised, executed and attempts have been made to "cover up" the scheme.

In fact, the *allegations* in "Conspiracy to Defraud"; those

particularly in para 11 \ Page 15 to para 16 \ page 17 clearly direct the Federal Court, to consider, that, all the defendants being attorneys, admitted to practice law and have taken their oath to conduct themselves pursuant to **22 NYCRR 1200** ***et seq***; each one of them (individual) recklessly chose to violate **22 NYCRR 1200** ***et seq***.

The Court decision, under the "able guidance" of BM was the "ultimate act" of "fraud" perpetrated by BM, contrary to NYS Constitution, NYS CPLR statutes, decisions of the NYS Courts and violative of several NYS Penal Code sections.

AK has also alleged, that, BM was "suitably rewarded" for his role.. Please see "Conspiracy to Defraud"..para 29 \ page 22 and para 30 \ page 23. And that, the entire "scheme" was "fabricated" piece by piece, on a continual basis by "concealing it from Meehan. J", as further *alleged* in para 33 and 34 n page 23 of "Conspiracy to Defraud-section". BM violated **18 USCS 1961(1)(B) and 18 USCS 1512 et seq** for mailing [P-22] by U. S. Mail and violated **18 USCS 1341.** and **18 USCS 1961(1)(B).**

Transaction No. 16: AK filed "notice of appeal" [Sofact para 227] wrote to Meehan J. [Sofact para 231, 233, 234] and wrote to def. Counsels [Sofact para 232] for " stay of all proceedings" pending appeal and adjournment of "settlement of judgement to Dec. 15, 1995; all reflected in Exhibits P-23, P-24. There was no response from Court and by their letters P-25 & P-26; the def. Counsels refused to "stay further proceedings". The counsels, did not want to "agree" to hold their "prized" victory of dismissal, in abeyance.

In the Federal action, counsels for OMCDOC have raised the issue, to a level that is unthinkable. Attention is drawn, to the

arguments of Counsels for OMCDOC, to the effect, that, OMCDOC and it's counsels had nothing to do with the "adverse Rockland Court decision" [Counsel's affirmation Nov. 01, 1999- Para 20] but that, it was "so issued" by the Court and that OMCDOC and it's counsels, did not "play any part, in it." OMCDOC counsels did not produce any affidavit signed by either DD or WRW or any partners, officers of OMCDOC; in support of this "bizarre" statement. Now, OMCDOC want to " disassociate" from the "fatal" decision [P-22] ? Is that their "escape hatch" ? I have responded to this argument, in my Dec. 04, 1999 affidavit on page 60, that, had this argument [of OMCDOC counsel] been "so Pius", then

OMCDOC should have moved to vacate the Judgement under **CPLR 5015**. But that was not done. DD & OMCDOC and everyone, without any doubt, "savored" their victory in obtaining the judgement, against AK. In fact 22 NYCRR 1200, et seq. Obligated OMCDOC to move to vacate that fraudulent judgement. All claims, to the contrary, at this time are useless.

Transaction No. 17: Then came the next "fiasco" of "signing the GEICO favored judgement" that is alleged in Sofact para 225 to 251; "Conspiracy to Defraud" section para 25 \ page 20 to para 28 \ page 22. AK also *alleged* in the "Civil Rights" section, from Para 22-n \ page 7 to para 48 \ page 18; relating to this "scheme" to 1) BM's telephone call to DD; for a "proper" page, fr Meehan J. to sign the judgement.

As it is generally alleged in Sofact para 225 to 251; BM or Meehan J. never responded to AK's request to "adjourn" the "Judgement signing" till Dec. 15, 1995; [Please see AK Exhibits P-23, 24, 25]. AK has *alleged*, that, BM never showed AK's correspondence to Meehan [see "Conspiracy

to Defraud" para 25 e \ page 21 and para 25 g.2 \ page 21;].

In this manner, BM received the page from DD, with her letter [AK Exhibit P-27]; that is contrary to **22 NYCRR 202.48**; that mandates "rejection" of the Judgement, for the reason, it is not "ready" or "deemed submitted" to the Court. DD and BM perpetrated RICO and Civil rights violations of the same statutes.

BM, WRW, DD, OMCDOC, HYM & MMKM each violated **18 USCS 1961(1)(A)** Extorting my rights, chargeable under State Laws and for mailing, receiving [P-27] by U. S. Mail and violated **18 USCS 1341.** and **18 USCS 1961(1)(B)**; in furtherance of their scheme.

Transaction No. 18: The next disaster was the matter of "Order To Show cause" [AK Exhibit P-28 and P-29] AK took to the Court, on Dec. 13, 1995. That is *alleged* in Sofact para 244 to 247 and also *alleged* in Conspiracy to defraud, in para 27 \ page 22 to para 28 \ page 22; as well as *alleged* in the "Civil Rights" section, from Para 22-n \ page 7 to para 48 \ page 18.

BM, in fact acted to deny the O. S.C.; all on his own, without any authority; **BM stamped Meehan's name to the O. S.C.** and returned it to AK. BM "usurped Meehan's power". When BM was coming to hand over the OSC [with denial, written in his own handwriting]; he stopped over, showed [see Sofact paras 244-247] the "copy-BM was about to deliver to AK" and Meehan "nodded" after looking at it. BM was personally violating several of the same Civil Rights and RICO statutes, referred to the transactions heretofore.

Transaction No. 19: OMCDOC served the "judgement" [Exhibit P-33] on AK [Sofact para 249], by US Mail that

was obtained by fraud, described in the above transactions.

The above acts of the Federal Defendants [Fully described in Sofact as shown above, in Conspiracy to defraud; in the Civil Rights sections-under heading of 14th Amendment [Page 4], as well as Discrimination [Page 4 to 7], unequal enforcement [Page 8 to 11], Deprivation [Page 11 to 13], Due Process [Page 14 to page 18] have been in total violations of the same Federal Civil rights statutes.

State Penal Code Violations, are described in "Criminal CD" section of the complaint, that forms the principal basis of RICO claims.

Defendants violated **N. Y. States Penal** statutes section 175.30 ["A" Misdemeanor] and 175.35 Offering False Instrument [GEICO's falsely verified answer P-01] for filing. 175.35 is a "**class E"** felony, that *earns 4 years of incarceration,* upon conviction; sections relating to making "false statement" under oath, pursuant to NYS Penal laws sections 210.05, 210.10, 210.15, 210.20, 210.25, 210.30, 210.35, 210.40. Out of them 210.05, 210.35, 210.45, are **"A" Class Misdemeanors**; 210.10 & 210.40 are **Class "E" Felony**..each *earning 4 years of incarceration* upon conviction; 210.15 is **Class "D" felony,** *that earns 7 years, upon conviction.* Filing such "falsely sworn papers" in the Rockland Court, DD & OMCDC violated **NYS Penal Code** sections 195.05 ["A" Misdemeanor] and 195.07. (**obstructing Governmental Administration of Rockland Court of Meehan J.)** 195.07 is **Class "E" Felony**..*earning 4 years of incarceration* upon conviction. The cumulative effect of the "above violations" of penal NYS and U.S. Penal statutes by DD caused violation of **NYS Penal Code** section 215.45
(compounding crime); that is **Class "E" Felony**..each

earning 4 years of incarceration upon conviction.

The defendants have "earned multiple violations of following **NYS Penal Code section** 195-05 ["A" Misdemeanor] and 195-07 ["E" Felony]; as well as section 175.30 ["A" Misdemeanor], 175.35 ["E" Felony], 190.60 ["B" Misdemeanor], 190.65 ["E" Felony]; 105.00 ["B" Misdemeanor]; 105.05 ["A" Misdemeanor]; 105.10 ["E" Felony; 105.15 ["B" Felony]; 215.10 ["A" Misdemeanor]; 215.11 ["E" Felony]; 215.12 ["D" Felony]; 215.13 ["B" Felony] and 460.20 ["B" Felony]

This must show, that, a every act of serving and filing a motion and the correspondence in support of the scheme is subject of so many penal violations.

DD, OMCDOC, HYM and MMKM" filing the motions was, in fact, a "routine and senseless acts, they have developed and perfected over a long time, **contrary to the spirit and letter of laws**, as means to conduct their law practice and *boost their billing*". DD used her "motion practice" as an instrument to defraud AK, for his being a "Pro-Se" litigant. AK has "argued" in his affidavits, that, "such senseless motion practice is *the bread and butter* of all attorneys" and "that" motion did not reflect any "good faith effort" on the part of DD, to resolve any issue at all. Besides, in her affirmation [HYM Exhibit "JJ"] DD demonstrated numerous "misconceptions of laws", upon which I have reflected in detail, in my affidavits in Rockland action. By "serving and filing, such motion" DD violated 22 NYCRR 1200 *et seq*.

DD and HYM used, their *"motions" as "instruments*, with far reaching effects, of her scheme, to defraud AK". The Motion practice was not an "incidental" but a "well calculated and deliberate act".

In fact, the same acts also constitute violations of **18 USCS 1512(b), 18 USCS 1512(b)(2)(A)** and the same acts also constitute violations of **18 USCS 1512(b)** [relating to tampering with witness, victim or an informant]..... that "statute" in part states.. As follows.....whoever knowingly uses *intimidation* or *corruptly persuades another person* to (1) influence, delay or prevent testimony.....also violates **18 USCS 1512(b)(2)(A)**.. Withhold testimony or withhold a record from an official proceeding (Rockland state action)and **18 USCS 1512(b)(2)(C)**.. evade legal process summoning a witness, or to produce record, documents or other object, in an official proceeding.

Avoidance Of Trial: AK demanded "trial of issues he raised on motion" (see *allegations* in Sofact paras 84 & 85, 95) pursuant to **CPLR 3212** and **2218**. AK intended to produce "employees of NYS Insurance Department - to offer evidence, through their "oral testimony" along with documentary evidence; supporting his claims, that GEICO had violated **NYS Insurance Laws** and particularly including those, but not exclusively relating to claims of Third Parties, like AK, in the past and GEICO was "cited by NYS Insurance Department, upon finding such violations" and that GEICO paid civil penalties. [reflected in AK Exhibits P-01A, P-17 & P-17A]. This claim was establishing a "pattern of misconduct, on the part of GEICO".

Allegations, in **"Conspiracy to Defraud"** in Para 3 \ page 3 to Para 6 \ Page 12; Para 14 \ Page 16; and *Allegations*, in the **"Civil Rights"** section under Para 22 d \ Page 5; in Para 22 n to p and Para 23 \ Page 7 under subtitle Discrimination; Para 24 \ Page 8, to Para 27 \ Page 10; under sub-title "Deprivation" from Para 34 \ Page 11 to Para 41 \ Page 13; as well as the entire sub-title "Due Process" from Para 42 \ page 14 to para 48 \ Page 18. All of them relate to BM's

actions, in concert with other defendants, relating to the issues of a " denial of Trial of Issues, AK raised".

The defendants, through and including BM; "successfully" influenced J. Meehan and prevailed upon J. Meehan in preventing conduct of "any trial, in open Court, with or without jury ", in State proceedings, simply by "dismissing" the entire action. The Exhibits P-01A, P-17 & P-17A completely supported AK's "two causes of action against GEICO".

It is a fact that *NYS Constitution Article 1, section 2* provides for Jury Trial, unless "waived by a party". AK never waived his right to a Jury Trial. There is a "clear" reference to Jury Trial in **CPLR 2218** and AK demanded it, through his affidavit of July 14, 1995 [HYM Exhibit "M"] and in subsequent affidavits.

All the Federal defendants, successfully prevented the NYS Constitutionally guaranteed "trial by Jury"; from "ever taking place". That is apparent, from the order of Rockland Court, Exhibited in AK Exhibit P-22 and P-33. AK has alleged, that BM "drafted" the "Court order- P-22" that constituted "basis" for subsequent Judgements P-33, P-35, P-37 affirming discrimination and deprivation.

There is absolutely "no question" that, the Federal defendants were totally successful in preventing AK from conducting any trial, presenting any evidence, calling any witnesses to testify before any jury or in the open Court, before Meehan J., on the record; at any time. This was active violation pf **18 USCS 1512** *et seq, discussed heretofore.*

Summary Of Arguments

1) I have presented my claims, in accordance with applicable statutory requirements, within the "judicially determined and accepted principles" for recovery of damages, for the multiple frauds, defendants perpetrated against me; during the Rockland Court proceedings. The Judgement of the U. S. District Court, that is inconsistent with the Law Of the Land, must be reversed.

2) I had constitutional rights, for "due process, equal protection of laws, fair judicial proceedings, no deprivation- at any time and unambiguous civil conduct, while my case was before J. Meehan, in Rockland County Court, in 1995.. The defendants, acting together, actively engaged in acts violating penal, procedural and Civil Right statutes, at every step and have damaged me, deprived me of my rights and property.

Arguments

1) I filed this action in less than three years, of my discovering the "mechanism of the injury [Please see Sofact para 269, 270, 272, 273, 274] and I fact "understood" the "implications of July 20, 1995 letter, in early part of 1998. After discovering the essential and central element of the major fraud, I commenced research of the applicable Federal Laws, for filing this action. After receiving the decision of the N. Y. State Supreme Court, Appellate Division-2nd Department, I made every effort, to understand the "basis" of that decision; could not determine as to "what evidence, it refereed to have been submitted by OMCDOC, for GEICO, to sustain the Rockland Court Judgement. After numerous careful reviews of the NY Statutes and NYCRR under title 22; I found the "Achilles heel" in the HYM letter, P-13. Till then, *I could not detect the "trickery" by HYM, in that letter*. The Appellate Division, did not bother [considering that the

Four Judges- are presumably far more competent, in law than I was and who had duty to review "facts and law" under CPLR] to review anything carefully and reverse the judgement.

2) My Federal complaint conforms to **FRCP Rule** 8(a), 8(e) and has served the "principal purpose" of giving Notice to the defendants of my claims against them. That is also evinced by the fact, that, HYM and MMKM have served and filed their answer, wherein HYM and MMKM have admitted several allegations in my complaint, without any reservations. Had my complaint been "so deficient" as the USDC claims, then, HYM and MMKM would not have even filed their answer under FRCP Rule 8(b) and 8(c), that contains several "admissions". All of the admissions are analysed in detail, in my affidavits of Dec. 04, 1999 and Dec. 17, 1999, along with it's implications in the accompanying memorandum of laws, in the motion practice. I have attached a total of 46 Exhibits [some with multiple pages] in support of my statements.

The sections, "Conspiracy To Defraud", Criminal Conduct of CD and RICO describe the defendant's Fraud in every detail and conforms to FRCP Rule 9(b).

FRCP Rule 8(f) demands that pleading "shall be so construed, to do substantial justice".

The complaint conforms to FRCP Rule 10(a), Rule 10(b)

3) All defendants filed their motions, for "dismissal", wherein only HYM filed and affidavit, under his signature. Counsels for other defendants filed their "affirmations" and those affirmations, cannot form the basis, equal to the "affidavits made upon personal knowledge" and have been

deficient, misleading and erroneous. I have extensively analysed the "affirmation" of the Asst. Attorney General of New York; wherein he has mislead and corrupted the record of the USDC, in claiming that, my claim is against the State Of New York and therefore "barred" by the eleventh amendment [my response on page 13 of 52 to my memorandum of law of Decd. 06, 1999]. My arguments are also detailed in this brief, under "BM should NOT have any immunity, infra.

The defendants have also mislead and corrupted the USDC record by claiming defense under Rooker-Feldman, Res Judicata, throughout their submission, to which I have responded in my Dec. 06, 1999 [Law memo page 3 to 11 of 52]. I have conclusively shown, that, the defendant's arguments and presentations [also subject to FRCP Rule 11] are "misrepresentations". Nevertheless, the USDC considered all of them and issued it's decision in their favor. I would suggest, that, the defendant's approach is to "materially deviate" the matter and create "chaos" in the record. The defendants have completely succeeded in their efforts in obtaining the dismissal, of my action.

Therefore, the decision, order and judgement are in violation of the U. S. Supreme Court mandates and must be reversed.

4) HYM filed his motion for summary judgment, served and filed an affidavit that is "false and in fact contradicts his own answer". I have extensively discussed this matter in my affidavit of December 4, 1999 as well as December 17, 1999. Primarily the HYM affidavit denies the same "allegations" he has "admitted" in his answers and therefore this is a continuation of the fraud upon this jurisprudence and this plaintiff appellant. It is unfortunate that in spite of my pointing out each and every aspect of

HYM fault through my affidavits, the District Court chose to grant the defendants' motion. It is also ironic that by a letter of December 10, 1999 the District Court extended time for me to respond to the motion for HYM summary judgment and upon my requesting "continuance" pursuant to Rule 56(f), to conduct discovery-for proper response to the HYM Motion for Summary Judgement by citing the applicable authority in a case decided by this Court, the District Court *"ignored my request for any discovery"* and granted the motion for HYM.. This dismissal therefore contradicts, impairs and frustrate the "directive of the Congress" expressed through passage of the **FRCP 56**.

Since, it is HYM created the contradictions, he is bound to "explain" to the jurors, as to why he filed his affidavit, that contradicts HYM answer, that he chose to file under **FRCP Rule** 8(b) and 89[c] and subject to **FRCP Rule 11** mandate.

Not only that, but HYM has submitted his own "affirmation" dated July 19, 1995; in support of his motion, made returnable on July 21, 1995; that is served with a "notice" of motion dated July 19, 1995 [all are HYM Exhibit "O"] and is supported by the affidavit of service [MMKM employee] **Bridget Smith**, dated July 20, 1995 [that is part of my Exhibit P-13, at the bottom] and it is "specifically"referred to in my Sofact para 111.

By HYM claiming, that he DID NOT violate CPLR 2215 requirement, is nothing but ludicrous. Not only that, but HYM affidavit violates **22 NYCRR 1200** et seq. By creating "appearance of impropriety" even in the Federal Proceeding. Of course, the USDC did not care about any of it.

5) Bruce Muldoon should not get any immunity on account of the details cited.

The NY State Legislature has established CPLR and the Chief Administrator Of The Courts have established the NYCRR under title 22; relating to motion practice. All the state courts have been adjudicating thousands of cases under those Laws and Rules. I was *entitled to get the same protection of law as anyone else*. The record *clearly* show that this equal protection of law offered by NYS Courts, pursuant to the guarantees in the Constitution of the State of New York was completely ignored in my case and my rights, under the NYS laws and Constitution and consequently under the U. S. Constitution and U. S. Laws were violated. I have claimed, that BM was directly responsible, for these violations. I have already discussed the matter of "Equal Protection" [under my Dec. 06, 1999 affidavit-page 5, 46 and 53.]

May I suggest, that, Bruce Muldoon [BM], working as a law secretary, for Rockland county Supreme Court Justice Meehan, [please see my 12-06-99 affidavit page 7 NY Judiciary law section 36]; was *empowered and entrusted with the duties to conduct research of law* to assist Justice Meehan , in rendering decisions to the litigants in Rockland Court. Not only that, but Justice Meehan presides over *Criminal trials* under the NYS Penal Laws, most of the time. Under the circumstances defendant BM was more than familiar with the Constitutional Provisions and laws applicable to adjudication, in the matters before the Supreme Court in Rockland county. Any claim, by BM, otherwise may raise *extremely serious questions* as to **whether the criminal defendants** in Justice Meehan's court *receive justice according to the constitution and law or not*.

In the same manner, when BM took any decisions [please see transactions No. 4, 6, 7, 9, 13, 14, 15, 17, 18, in this brief

] and acted pursuant to the communications he received from the defendant counsels in this action or in violation of the instructions he may have received from Justice Meehan; BM did not have to take any split-second decision, that is similar to "police officers where "the police" may perceive danger to themselves and therefore may act to save their own lives or to avoid any injury to themselves. Even the letter in transaction No. 13, herein was meant for BM rather than Justice Meehan.

Under the circumstances BM was duty bound to conduct proper inquiries at all times, during my Rockland action, pending before Justice Meehan; and in fact he was duty bound under 22 NYCRR 1200 [discussed in 12-06-99 affidavit pages-15 to 17], to forestall any wrongful acts of the defendant counsels (DD, HYM, OMCDOC & MMKM) and was duty bound to provide the NYS Constitutional protection of Equal Rights pursuant to Article I, Clause 11 [discussed BM's failure in my 12-06-99 affidavit pages 48 to 56], to me, as a litigant.

It is therefore my contention, that, BM chose to ignore his "assigned" duties and in doing so he permitted defendant counsels to continuously perpetrate misconduct in the judicial proceeding against me.

Prepared and submitted by:

Ashok Kashelkar Pro Se
Petitioner
6 Innington Court
Spring Valley NY 10977
Tel (845) 426 2902